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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------------|------------------|
| 10/663,438   | 09/16/2003  | Derrek William Batty | U 014818-3                     | 1568             |
| 7590<br>William R. Evans<br>Ladas & Parry<br>26 West 61 Street<br>New York, NY 10023 | 01/16/2007  |                      | EXAMINER<br>DREIDAME, HUNTER M |                  |
|  |             |                      | ART UNIT<br>3635               | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE                  |                  |
| 3 MONTHS   |             | 01/16/2007           | PAPER                          |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                |                       |  |
|------------------------------|--------------------------------|-----------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>         | <b>Applicant(s)</b>   |  |
|                              | 10/663,438                     | BATTY, DERREK WILLIAM |  |
|                              | Examiner<br>Hunter M. Dreidame | Art Unit<br>3635      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 December 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 - 14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 - 10, 12 - 14 is/are rejected.  
 7) Claim(s) 11 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)              |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application    |
| Paper No(s)/Mail Date _____.<br>_____  | 6) <input checked="" type="checkbox"/> Other: <u>Marked Figure</u> . |

## DETAILED ACTION

### ***Claim Status***

Claims 1 – 14 are pending and have been examined in this Office Action.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the locking means of claims 6 – 8, 14 – 16, and the hydraulically operable expansion means of claim 3, 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered:

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities:

Page 3, line 2, of the Specification reads, "Bach of the members" whereas it should read, --Both of the members--.

Page 3, line 27, of the Specification reads, " an advantage of the device 8 as it can" whereas it should read, --an advantage of the device 8 is it can--.

Appropriate correction is required.

***Claim Objections***

Claim 1 is objected to because of the following informalities:

Line 1 of the claim reads, "between a floor and a ro f" whereas it should read, --between a floor and a roof--.

Appropriate correction is required.

Regarding claim 1, the language between the preamble and portions of the body of the claim are inconsistent. For example, the preamble of claim 1 sets for the subcombination "support device"; however, lines 7 - 10 of the claim recite "the device is positioned towards or against the rib and the expansion means is activated to drive the members apart, the member's distal ends are driven substantially vertically into engagement with the floor and the roof and a portion of the device is driven substantially laterally into abutment against the rib" which sets forth a positive relationship between

the support device and the rib, floor, and ceiling and thus appears to claim a combination.

For purposes of examination, claim 1 is being treated as a combination.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 – 8, 14 – 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 6 – 8, 14 – 16 disclose a locking means which is neither further defined in the Specification, nor shown in the Drawings. As such, one of ordinary skill in the art cannot determine which locking means the applicant is claiming.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 - 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 1, 7, and 10 of claim 1 cite a rib (to make with ridges, [Webster's II Dictionary). The applicant notes on page 1, line 4 of the Specification that the rib is a wall. However, it is not clear in the claim whether the applicant is actually referring to a wall or to a rib extending from the wall.

Clarification is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 9, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,997,317 to Schönfeld et al.

**Claim 1:**

Schönfeld et al. disclose a support device (1, Fig. 1) for a rib (1.2, Fig. 1) between a floor (2, Fig. 1) and a roof (1.1, Fig. 1), the device including an expansion means (see marked figure); and a pair of resilient members (see marked figure) each having a proximal end (see marked figure) adapted for connection to the expansion means and a distal end (see marked figure) curved away from the expansion means and adapted for engagement with the floor and roof respectively, wherein when the device is positioned towards or against the rib and the expansion means is activated to drive the members apart, the members' distal ends are driven substantially vertically

into engagement with the floor and the roof and a portion (expansion means) of the device is driven substantially laterally into abutment against the rib.

**Claim 2:**

The support device as claimed in claim 1, wherein the expansion means is mechanically operable to selectively permit or inhibit tensioning of the rib support (Fig. 1).

**Claim 4:**

The support device as claimed in claim 1, wherein the distal ends of the resilient members have sawtooth profiles (9, Fig. 1A; 4, Fig. 1B).

**Claim 5:**

The support device as claimed in claim 1, wherein the resilient members are made from pre-curved spring steel (lines 36 – 38, col. 3).

**Claim 9:**

Schönfeld et al. disclose a support device (1, Fig. 1), the device comprising an expander (see marked figure); and a pair of resilient members (see marked figure) each having a proximal end (see marked figure) adapted for connection to the expander and a distal end (see marked figure) curved away from the expander.

**Claim 10:**

The support device as claimed in claim 1, wherein the expansion means is mechanically operable to selectively permit or inhibit tensioning of the rib support (Fig. 1).

**Claim 12:**

The support device as claimed in claim 1, wherein the distal ends of the resilient members have sawtooth profiles (9, Fig. 1A; 4, Fig. 1B).

Claim 13:

The support device as claimed in claim 1, wherein the resilient members are made from pre-curved spring steel (lines 36 – 38, col. 3).

***Allowable Subject Matter***

Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

While art was found reading on the other claims, no art could be found in which a hydraulically operable expansion means was utilized to support a rib or wall. Art was found in which hydraulically operable expansion means were used to support a roof, but motivation could not be found to provide the support of Schönfeld et al. with such means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter M. Dreidame whose telephone number is (571)272-5177. The examiner can normally be reached on Monday - Friday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571)272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Hunter Dreidame*

HD

*Naoko Slack*

NAOKO SLACK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

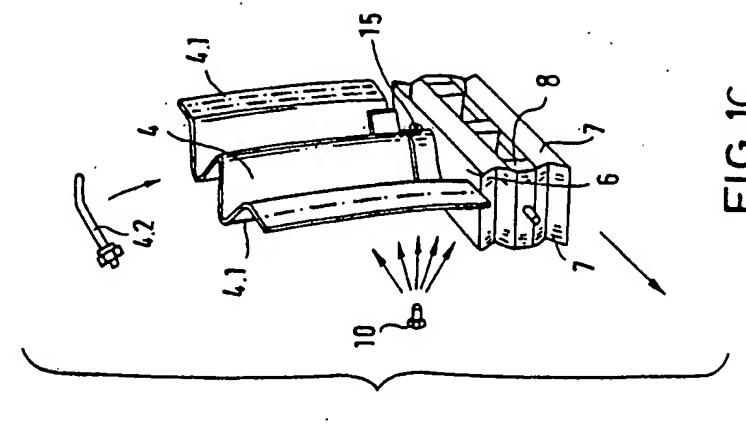


FIG. 1C

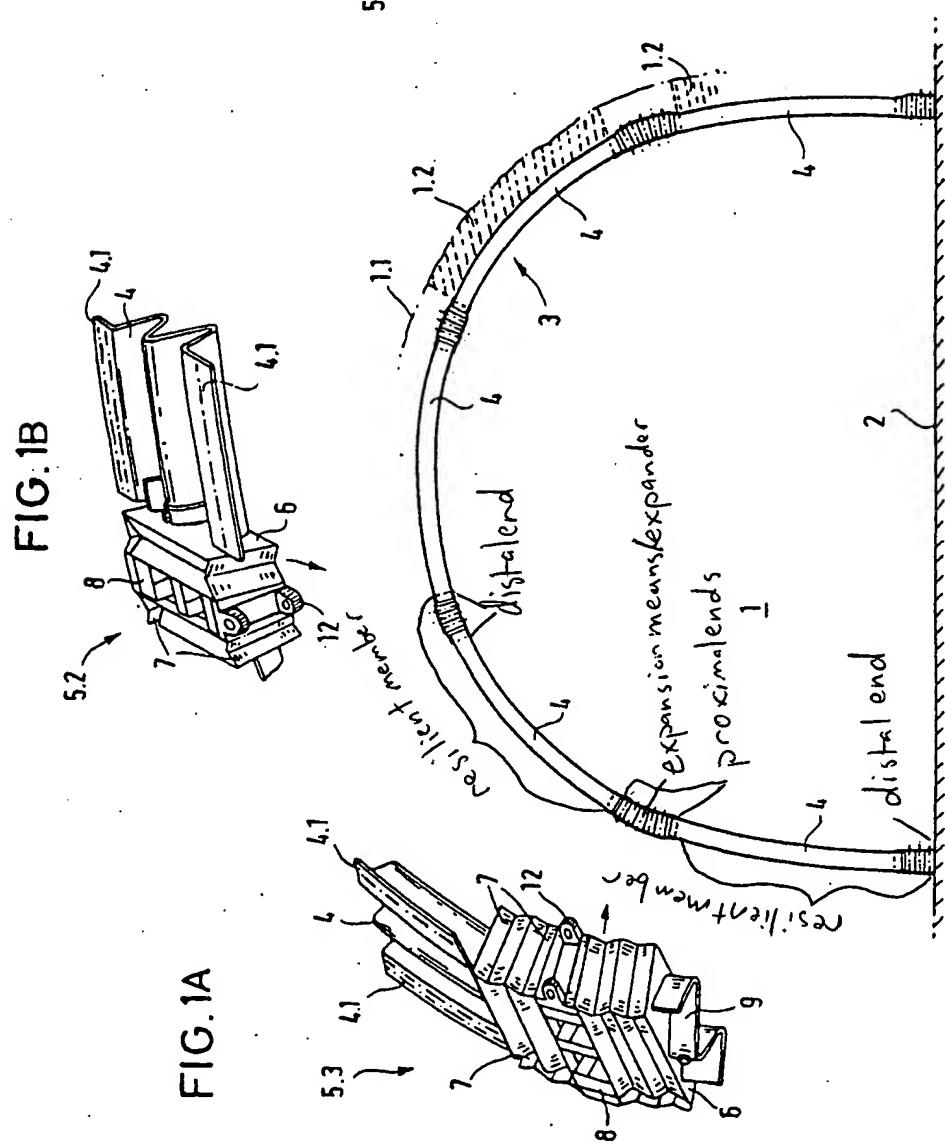


FIG. 1